



Ronald L. Tsosie #29723-008

Name and Prisoner/Booking Number

U.S.P. - CANAAN

Place of Confinement

% Box 300

Mailing Address

Waymart, PA 18472

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF West Virginia

Ronald L. Tsosie

(Full Name of Plaintiff)

Plaintiff,

vs.

CASE NO. 2:10-cv-1288

(To be supplied by the Clerk)

(1) Bureau of Prisons

(Full Name of Defendant)

(2) Employees of the

(3) United States

(4)

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CIVIL RIGHTS COMPLAINT
BY A PRISONER

☒ Original Complaint

☐ First Amended Complaint

☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).

☒ Other: 28 U.S.C. 2675-FTCA; 28 U.S.C. 1505-Indian Claims

28 U.S.C. 1346(b)

2. Institution/city where violation occurred: USP Hazelton-Brighton Mills

W.Va.

B. DEFENDANTS

1. Name of first Defendant: B.O.P Employees. The first Defendant is employed at: United States at USP Hazelton.
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as: _____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? 2. Describe the previous lawsuits:

a. First prior lawsuit:

1. Parties: TSOSIE v. Micheal Garrett et al
2. Court and case number: U.S.C.A - 09-16439-A 11th circuit of Appeals
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) pending

b. Second prior lawsuit:

1. Parties: TSOSIE v. Ronnie Holt et al
2. Court and case number: Scranton, PA. Civil No. 3: CV-10-0255
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) pending

c. Third prior lawsuit:

1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: Duty of Care breached under 18 U.S.C. 4042, 28 U.S.C. 1346(b)
2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input checked="" type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	
3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

On December 21, 2008 Myself and two Native Americans was transferred from U.S.P. Hazelton in Brighton Mills, West Virginia to USP-Canaan in Waymart Pennsylvania. During this road trip we was deprived of toilet facilities for 10 to 11 hrs. When requests were made we ^{were} told "We're almost there". The BOP staff had a opportunity to let us use the toilet when we stopped at U.S.P. Allenwood. But was denied this when we stopped there for an hour or so. This was in violation of Basic Human needs. La Faut V. Smith, 834 F.2d 389, 392-94 (4th Cir 1987) the Court held "failure of prison Officials to ensure inmates had accessible toilet facilities resulted in violation of inmates Constitutional rights". This tort claim is not for a Constitutional Violation, But for deprived of minimal civilized measures of life's necessities.
4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

Extreme pain to Kidneys and difficult, Painful Bowel movement after 10 to 11 hours
5. **Administrative Remedies:** sent form SF-95 to regional Office. Got no reply.
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 - b. Did you submit a request for administrative relief on Count I? ☐ Yes ☐ No
 - c. Did you appeal your request for relief on Count I to the highest level? ☐ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: 28 U.S.C. 1505

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- ☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☒ Other: Negligence

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

United States defendant owed plaintiff a duty of care which was breached that resulted in harm to his Health and Safety when BOP employees in the service of the United States under 28 U.S.C. 2671 deprived plaintiff a Federally recognized American Indian from the Navajo tribe under the protection of the United States enrollment number 610,179 by depriving plaintiff of lifes basic necessities (e.g. toilet facilities, food) under 18 USC 4042; United States v. Muniz, 374 U.S. 150 (1963)
Myself, and Inmates Wayne Fisher and Russell Eaglebear are Federally recognize members of Indian tribes in the United States which are treaty tribes.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

Same as Count 1

5. **Administrative Remedies.** sent form 95 to agency, but never got a reply.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
 c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
 d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT III

1. State the constitutional or other federal civil right that was violated: Intentional Infliction of Emotional Distress

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

- ☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

While in transit the BOP employees was exceeding speeds over 100+ when they was seat belted and we (inmates) was not. All while in hand restraints and Leg restraints. When we brought this to the attention of the Correctional Officers. They just laughed at us and ignored our pleas about what they was doing. At one point we ran off the road because the window got covered with slush from other vehicles. The C/O's continued to violate the speed limit and putting us inmates in imminent danger while it was snowing and the roads wet.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

I was in Duress as I thought we was going to wreck while in this Four wheel Van

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
 c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
 d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

Compensatory damages pursuant to 28 U.S.C. 2675(b)
or 28 U.S.C. 1346(b)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/3/10
DATE


SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.



March 12, 2010

U.S. Department of Justice
Federal Bureau of Prisons
Mid-Atlantic Regional Office

302 Sentinel Drive, Suite 200
Annapolis Junction, Maryland 20701

Ronald Tsosie
Reg. No. 29723-008
USP Canaan
P.O. Box 300
Waymart, PA 18472

Re: Administrative Tort Claim Number TRT-MXR-2010-01985

Dear Mr. Tsosie:

This will acknowledge receipt on December 10, 2009, of your administrative tort claim for alleged personal injury at USP Hazelton on or about December 21, 2008. You claim a sum certain of \$100,000.00.

Under the provisions of the Federal Tort Claims Act, 28 U.S.C. §2675, we have six months from the date of receipt of your claim in this office, to review, consider, and adjudicate your claim.

Should your claim include an allegation of loss of or damage to personal property, pursuant to 28 C.F.R., §14.4(c), you are required to include with your claim an itemized list of the property lost or damaged. If possible, for each item, please state its value, date and place of purchase. If the property was purchased in a Federal institution, submit the commissary receipt. If the property was not purchased in a Federal institution, submit a copy of the receipt of purchase. If you do not have a receipt please state as such, and list the place purchased, for example: name of store, address, state, date and cost for each item alleged lost or damaged. Failure to respond within 30 days of this letter will delay the investigation of your claim. ***If you have already included these items do not re-submit.***

All correspondence regarding this claim should be addressed to: Regional Counsel, Federal Bureau of Prisons, Mid-Atlantic Regional Office, 10010 Junction Drive, Annapolis Junction, Maryland 20701. When corresponding with this office regarding this tort claim please refer to the above tort claim number. If you have any questions about the status of your claim or if the circumstances surrounding this claim change in any fashion, contact this office immediately. **Also, should your address change, please advise accordingly.**

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle T. Fuseyamore", is written over the typed name.

Michelle T. Fuseyamore
Regional Counsel